

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MICHAEL J. PISKANIN, :
Petitioner, :
v. : Case No. 3:10-cv-58-NBF-KAP
KENNETH CAMERON, SUPERINTENDENT, :
S.C.I. CRESSON, :
Respondent :

Memorandum Report and Recommendation

Petitioner filed a motion at docket no. 9 in this habeas corpus matter, referred to me under 28 U.S.C. § 636(b). The motion seeks to vacate the judgment entered in this court in April 2010, which was affirmed by the Court of Appeals in September 2010 at No. 10-2356. The motion also asks for relief more appropriate to a civil rights action, namely "all necessary [] supplies and postage to prosecute this and related action[s]."

Petitioner is a frequent filer, having submitted twenty or so habeas corpus petitions and civil rights complaints in this court. Many of the habeas petitions are attempts to avoid the filing fee requirements of the Prison Litigation Reform Act that petitioner faces under the three strikes rule, 28 U.S.C. § 1915(g); others, like the original petition in this matter, are replays of the petition I considered in Piskanin v. Krysevig, Case No. 3:06-cv-194-KRG-KAP (W.D.Pa. October 19, 2006).

The motion to reopen does not allege any grounds for relief that would be adequate under Fed.R.Civ.P. 60(b) to justify vacating the judgment: in so many words the motion simply says the previous decision of this court, affirmed by the Court of Appeals,

was wrong and should be ignored. As I said in 2006, on the merits McCandless v. Vaughn, 172 F.3d 255 (3d Cir.1999) precludes relief in this district. As this court said in 2010, prudential and jurisdictional reasons make district courts in New York and New Jersey more appropriate forums for petitioner's underlying challenges to his prosecutions in those states. This motion in part is an abuse of the writ, and in part is an attempt to evade the PLRA. It should be denied.

Pursuant to 28 U.S.C. § 636(b)(1), the parties are given notice that they have fourteen days to serve and file written objections to this Report and Recommendation.

DATE: November 20, 2012



Keith A. Pesto,
United States Magistrate Judge

Notice by U.S. Mail to:

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